

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0095 CG

Charity Gaming

For the Period: 06/01/92 through 04/24/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Charity Gaming – Financial Records

Authority: IC 4-32-9-17; IC 6-8.1-5-1; Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993)

The taxpayer protests the Department's assessment of civil penalties for failing to maintain accurate records.

II. Charity Gaming – License Renewal Fees

Authority: IC 4-32-11-3; IC 6-8.1-5-1; Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993)

The taxpayer protests the Department's assessment of additional license renewal fees.

III. Charity Gaming – Bingo Event Prize Limit

Authority: IC 4-32-9-30; IC 6-8.1-5-1; Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993)

The taxpayer protests the Department's assessment of civil penalties for exceeding the maximum prize limit.

IV. Charity Gaming – Lease of Facilities and Personal Property

Authority: IC 4-32-9-20; IC 6-8.1-5-1; Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993)

The taxpayer protests the Department's assessment of civil penalties for exceeding the rent limitation.

V. Charity Gaming – Six (6) Month Probationary Status

Authority: IC 4-32-12-3

The taxpayer protests being placed on probationary status for six (6) months.

STATEMENT OF FACTS

The taxpayer is a not-for-profit organization registered with the Indiana State Department of Revenue. The organization was licensed to conduct Bingo and sell Pull Tabs, Punch Boards, and Tip Boards at a specified location in Indianapolis, Indiana. The Indiana Department of State Revenue conducted an investigation and completed a report on the charity gaming operations of the taxpayer for the period June 1, 1992 through April 24, 1996. The taxpayer was notified in writing of the Department's findings in a letter dated January 23, 1997. After receiving notice the taxpayer filed its written protest on January 28, 1997. The protest was timely filed pursuant to IC 4-32-8-1.

Additional facts will be presented below.

I. Charity Gaming – Financial Records

DISCUSSION

The taxpayer in its letter dated February 14, 1997, protests the Department's assessment of civil penalties for failing to maintain accurate financial records.

Pursuant to IC 4-32-9-17, a qualified organization is required to maintain accurate records of all financial aspects of an allowable event. The organization must maintain a separate and segregated account for deposit of charity gaming funds. For the financial period June 1, 1994 through May 31, 1995, the taxpayer failed to keep accurate financial records on the income generated from pull tabs, punch boards, and tip boards resulting in the under-reporting of charity gaming gross income. For the financial period June 1, 1995 through April 24, 1996, the taxpayer failed to keep accurate financial records on the income generated from pull tabs, punch boards, and tip boards resulting in the under-reporting of charity gaming gross income (See Department's Exhibit #6 and #7).

The taxpayer failed to attend the hearing and thus did not provide any documentation in support of its protest. Therefore, the Department finds that the taxpayer failed to keep

accurate records for the period June 1, 1994 through April 24, 1996 as provided by Indiana law. Pursuant to IC 6-8.1-5-1, the Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made. See Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993). In this instance the taxpayer failed to attend the hearing and therefore, did not meet its burden of proof. The taxpayer's protest is respectfully denied.

FINDING

The taxpayer's protest is denied.

II. Charity Gaming – License Renewal Fees

DISCUSSION

The taxpayer in its letter dated February 14, 1997, protests the Department's assessment of additional license renewal fees.

The organization failed to pay the appropriate license renewal fee as a result of under-reporting gross income from the charity gaming events reported on its charity gaming financial reports filed June 21, 1995 and April 24, 1996 (See Department's Exhibits #4 and #5).

The taxpayer failed to attend the hearing and thus did not provide any documentation in support of its protest. Therefore, the Department finds that the taxpayer failed to pay the appropriate license renewal fee as provided by Indiana law. Pursuant to IC 6-8.1-5-1, the Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made. See Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993). In this instance the taxpayer failed to attend the hearing and therefore, did not meet its burden of proof. The taxpayer's protest is respectfully denied.

FINDING

The taxpayer's protests is denied.

III. Charity Gaming – Bingo Event Prize Limit

DISCUSSION

The taxpayer in its letter dated February 14, 1997, protests the Department's assessment of civil penalties for exceeding the maximum prize limit.

Except when special permission is given for an increased prize limit, the total prizes permitted at a single bingo event may not have a value of more than six thousand dollars

(\$6,000). See IC 4-32-9-30. A review of the taxpayer's records show a consistent violation of the \$6,000 prize limit. The Department, issued a subpoena (see Department's Exhibits #1 and #2) for all of the taxpayer's business records. The records turned over to the Department included the taxpayer's own Master Control sheets for the dates September 4, September 7, September 11, September 28, October 26, and November 23, 1995. These sheets showed the nightly bingo prize payouts to be \$10,601.00; \$6045.00; \$6045.00; \$6045.00; \$6,500.00; and \$6965.00 respectively.

The taxpayer failed to attend the hearing and thus did not provide any documentation in support of its protest. Therefore, the Department finds that the taxpayer consistently violated the \$6,000 prize limit imposed by IC 4-32-9-30. Pursuant to IC 6-8.1-5-1, the Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made. See Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993). In this instance the taxpayer failed to attend the hearing and therefore, did not meet its burden of proof. The taxpayer's protest is respectfully denied.

FINDING

The taxpayer's protest is denied.

IV. Charity Gaming – Lease of Facilities and Personal Property

DISCUSSION

The taxpayer in its letter dated February 14, 1997, protests the Department's assessment of civil penalties for exceeding the rent limitation.

Pursuant to IC 4-32-9-20, if a facility is leased for an allowable event the rent may not exceed two hundred dollars (\$200) per day. Based upon information disclosed in the financial report for the period ending June 1, 1995 through April 24, 1996, the organization exceeded the two hundred dollars limitation by an average of \$58.23 per bingo day.

The taxpayer failed to attend the hearing and thus did not provide any documentation in support of its protest. Therefore, the Department finds that the taxpayer exceeded the limitation on rental fees as imposed by IC 4-32-9-20. Pursuant to IC 6-8.1-5-1, the Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made. See Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993). In this instance the taxpayer failed to attend the hearing and therefore, did not meet its burden of proof. The taxpayer's protest is respectfully denied.

FINDING

The taxpayer's protest is denied.

V. **Charity Gaming** – Six (6) Month Probationary Status

DISCUSSION

The taxpayer in its letter dated February 14, 1997, protests being placed on probationary status for six (6) months beginning from the issue date of the renewal license.

In light of the foregoing violations, the Department was compelled to place the taxpayer on probation for six (6) months following the issuance of its renewal license.

The taxpayer failed to attend the hearing and did not meet its burden of proof. The taxpayer's protest is respectfully denied.

FINDING

The taxpayer's protest is denied.